

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR  
SYSTEMS PRODUCTS LIABILITY  
LITIGATION

Master File No. 2:12-MD-02327  
MDL 2327

THIS DOCUMENT APPLIES TO ALL  
WAVE 3 CASES

JOSEPH R. GOODWIN U.S. DISTRICT  
JUDGE

**PLAINTIFFS' MOTION FOR LEAVE TO LATE-FILE MOTION TO LIMIT THE  
OPINIONS AND TESTIMONY OF HARRY JOHNSON, JR., M.D.**

Come now, the Plaintiffs, and submit *Plaintiffs' Motion for Leave to Late-File Motion to Limit the Opinions and Testimony of Harry Johnson, Jr., M.D.* Pursuant to LR Civ P 7.1 a supporting memorandum of law is not filed herewith.

Pursuant to Pretrial Order No. 210, *Daubert* motions in Wave 3 cases were due on September 19, 2016. Plaintiffs did not file their *Daubert* motion with respect to Defendants' designated general expert, Harry Johnson, Jr., M.D. (hereinafter "Dr. Johnson"), due to a misinterpretation of Dr. Johnson's designation. Because Defendants designated Dr. Johnson in only one (1) Wave 3 case (to the best of Plaintiffs' knowledge), Plaintiffs inadvertently thought this was a case-specific designation. Rather, Defendants did designate Dr. Johnson as a general expert, and Plaintiffs have just recently learned of their error. As such, Plaintiffs respectfully request the Court grant leave for Plaintiffs to late-file their general *Daubert* motion with respect to Dr. Johnson.

Plaintiffs assert Defendants will suffer no prejudice if this Motion is granted as Defendants designated Dr. Johnson as a general expert in the Mullins Consolidated Cases, and Plaintiffs filed a *Daubert* motion in the Mullins Consolidated Cases on the *same* expert report

that Dr. Johnson produced in Wave 3. As such, Plaintiffs propose to file the same motion (excepting case caption and list of cases to which the motion applies) they filed in the Mullins Consolidated Cases, as related to Dr. Johnson, in Wave 3. Moreover, Plaintiffs will consent to any needed extensions of time Defendants may need to respond to the Wave 3 motion, although Plaintiffs anticipate Defendants will simply re-file the response they filed to Plaintiffs' *Daubert* motion filed in the Mullins Consolidated Cases. For these additional reasons, Plaintiffs respectfully request the Court grant the instant Motion thereby granting leave to Plaintiffs to late-file their *Daubert* motion related to Dr. Johnson in Wave 3. A proposed form of order is included herewith.

Dated: September 27, 2016

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2016, I electronically filed the foregoing document with the Clerk of the court using CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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